

INTERGOVERNMENTAL AGREEMENT

AND

LAND EXCHANGE AGREEMENT

Between

STATE OF ARIZONA

and

LITTLETON ELEMENTARY SCHOOL DISTRICT NO. 65
OF MARICOPA COUNTY

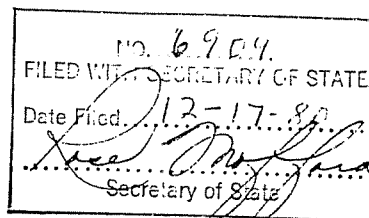
PARTIES

THIS AGREEMENT, entered into this 15 day of DECEMBER, 1980, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, by and between the STATE OF ARIZONA, acting by and through the ARIZONA DEPARTMENT OF TRANSPORTATION (the "State"), and LITTLETON ELEMENTARY SCHOOL DISTRICT NO. 65 OF MARICOPA COUNTY (the "District").

STATUTORY AUTHORIZATION

WHEREAS, the State is empowered by A.R.S. Section 28-103 to enter into this Agreement and the Director of the Arizona Department of Transportation has resolved to enter into this Agreement and has authorized the execution of this Agreement on behalf of the State by that certain resolution attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, the District is empowered by A.R.S. Section 15-442 to enter into this Agreement, and acting by and through its duly elected governing body, has resolved to enter into this Agreement and has authorized the execution of this Agreement on behalf of the District by that certain resolution attached hereto as Exhibit "B" and incorporated herein by reference; and



PURPOSE

WHEREAS, the State is presently developing plans and acquiring rights of way to widen State Route 85 (Buckeye-Phoenix Highway); and

WHEREAS, the District is the owner of certain real property (the "District Property"), more particularly described in Schedule A-1 attached hereto and incorporated herein by reference, consisting of approximately 1.52 gross acres, lying within the new alignment of State Route 85; and

WHEREAS, the State, pursuant to authorization contained in Project No. S-371-707, has or is acquiring certain real property (the "Neilson Property"), more particularly described in Schedule A-2 attached hereto and incorporated herein by reference, consisting of approximately 2.0 gross acres, adjoining the western boundary of the Littleton Elementary School property; and

WHEREAS, appraisals of the District Property and the Neilson Property indicate that they are of substantially equal value; and

WHEREAS, the District is precluded by law from exchanging real property with a private owner but may, by this Agreement, exchange real property with the State; and

WHEREAS, it is in the parties' mutual interest to exchange the subject properties; and

WHEREAS, a portion of the District's classroom facilities, a building containing two classrooms (the "Existing Facility"), together with a portion of the irrigation system and facilities servicing the Littleton Elementary School (the "Irrigation System"), lies within the District Property and will have to be removed; and

WHEREAS, as indicated by a letter dated March 28, 1980, a copy of which is attached hereto as Exhibit "C" and incorporated herein by reference, from Quentin Aycock, the District Superintendent, the District has requested a functional replacement of the Existing Facility; and

WHEREAS, the District furthermore has requested a functional replacement of the Irrigation System; and

WHEREAS, the State is willing to replace the Existing Facility with a new building (the "Replacement Facility") of at least comparable size and utility, suitable in all respects to function as a two (2) classroom educational facility, and to replace the Irrigation System with a new irrigation system (the "Replacement Irrigation System") of at least comparable utility, both the Replacement Facility and the Replacement Irrigation System meeting or exceeding all present construction standards in the area and those standards or other criteria required or recommended pursuant to all applicable codes, laws, or ordinances, including but not limited to local building codes, standards and procedures under State law, fire and health codes, and by all appropriate local, State and Federal agencies, a Replacement Facility or Replacement Irrigation System constructed in compliance with the foregoing being deemed "suitable."

NOW, THEREFORE, in consideration of the mutual covenants hereinafter to be kept by all parties, it is mutually agreed as follows:

METHOD

Escrow

1. Upon this Agreement becoming effective, the parties shall execute and deliver to Transamerica Title Insurance Company ("Escrow Agent"), all of the instruments of conveyance and other documents necessary to effect the exchange of the subject properties as reasonably contemplated hereby. At such time, the parties furthermore shall direct the Escrow Agent to effect the exchange of the subject properties.

2. Upon this Agreement becoming effective, the State furthermore shall deposit with Escrow Agent the sum of \$50,000.00, an amount reasonably expected to cover the costs related to construction of the Replacement Irrigation System, and the sum of \$30,000.00 to be

applied to the initial costs related to construction of the Replacement Facility. The State, shall, if necessary, from time to time deposit such additional monies in escrow to fully cover the functional replacement of the Existing Facility and Irrigation System so that such improvements are completed without cost to the District as provided in this Agreement. The parties furthermore shall instruct Escrow Agent that upon written direction from authorized representatives of both the State and the District, Escrow Agent shall release all or part of such funds to such persons or entities and pursuant to terms and at such times and conditions as the construction contemplated by written contracts for the construction of the Replacement Facility and the Replacement Irrigation System has been performed.

Approval of Plans

3. The District shall hire an architect to prepare detailed working plans, specifications, and estimates (the "Plans") for the Replacement Facility and the Replacement Irrigation System and shall submit such Plans to the State.

4. The State shall review the Plans and submit to the District a list of those improvements requested by the District (the "Excess Improvements") that the State deems to be in addition to those improvements necessary or desirable (the "Eligible Improvements") for the construction of a suitable Replacement Facility and a suitable Replacement Irrigation System.

5. The District shall have thirty (30) days from receipt of such list of Excess Improvements to notify the State in writing that it contests the listing of any item thereon. Failure of the District to give such written notification within said period shall be deemed to be an approval of such list. If such written notification is given within such period, the covenants, conditions and obligations of this Agreement shall be suspended and the force and effect of this

Agreement shall terminate unless and until the District shall approve a list of Excess Improvements submitted by the State.

Title to Existing Facility

6. The District does hereby relinquish unto the State all its right, title and interest in and to the Existing Facility.

Construction

7. The District shall, after submission of the Plans to the State and approval of the list of Excess Improvements by the District:

(a) Solicit bids for construction and completion of the Replacement Facility and the Replacement Irrigation System;

(b) Promptly award the construction contracts for both the Replacement Facility and the Replacement Irrigation System to the lowest responsible bidders selected by the District and approved by the State in accordance with A.R.S. Section 34-201, et seq.;

(c) Submit two (2) certified copies of each executed construction contract to the State;

(d) Cause construction on each project to begin within thirty (30) days after the respective construction contract is awarded;

(e) Provide or arrange for adequate supervision and inspection of all construction and improvements;

(f) Keep accurate records of construction costs, providing auditors of the State with access to the District's books and records at all reasonable times, and providing such reasonable assistance and

information as may be requested for the purpose of auditing or reviewing costs paid or to be paid pursuant to the construction contracts;

(g) Retain all original records and documents pertaining to the construction of the Replacement Facility and the Replacement Irrigation System for a period of three (3) years following final payment to the general contractors, making such records and documents available for inspection by representatives of the State upon reasonable request; and

(h) Together with the State, upon completion of construction and acceptance and approval by both parties, instruct the Escrow Agent to refund to the State the balance of any sums held in Escrow.

8. The State shall:

(a) Pay all costs related to construction of the Eligible Improvements;

(b) Within fifteen (15) days following each payment from Escrow, deposit into Escrow a sum equal to the amount of such payment, but the State need not deposit an amount in excess of that amount which when added to the amount already in Escrow can reasonably be expected to cover the remaining costs related to construction of the Eligible Improvements; and

(c) Prior to demolition and removal of the Existing Facility, provide in a location approved by the District a temporary structure containing two (2) or more classrooms, suitable for temporary use as an educational facility for at least sixty (60) students, such temporary structure to be available for such use until construction of the suitable Replacement Facility has been completed, accepted and approved by both parties.

9. Nothing contained herein shall create liability on the part of the State, its officers, agents or employees, relating to the plans for and the construction of the improvements contemplating in this agreement. The District agrees to save and hold harmless the State, its officers, agents, and employees, from any claim or cause of action arising out of any negligent act or omission of the District, its officers, agents and employees, in connection with the performance of this agreement.

DURATION AND TERMINATION

10. This Agreement shall terminate upon completion, acceptance and approval of construction of a suitable Replacement Facility and a suitable Replacement Irrigation System, or may be terminated by either party at any time prior to the awarding of the construction contracts upon thirty (30) days' written notice of that election. The parties understand that this Agreement is subject to cancellation by the Governor of Arizona, pursuant to A.R.S. Section 38-511, and is conditional upon the allocation of funds by the Legislature and the Arizona Transportation Board and receipt of authorization of the voters of the District by election to be held November 4, 1980, as required by A.R.S. Section 15-442.

FILING WITH THE SECRETARY OF STATE

11. This Agreement shall be filed with the Arizona Secretary of State and shall become effective upon filing and approval of the governing boards of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this INTERGOVERNMENTAL AGREEMENT AND LAND EXCHANGE AGREEMENT on the date first hereinabove set forth.

STATE OF ARIZONA, acting by
and through the ARIZONA
DEPARTMENT OF TRANSPORTATION

By W. P. Ordway
Its Director

LITTLETON ELEMENTARY
SCHOOL DISTRICT NO. 65
OF MARICOPA COUNTY

By Robert L. Todd
Its PRESIDENT
attest
Quentin Aycock

Schedule A-1

Those portions of Lots 1 through 12, inclusive, and of Lot 24, in Block 1 and of Lots 1 through 10, inclusive, and of the East 17.5 feet of Lot 11, in Block 2, ALL in LITTLETON TRACT, according to the plat of record in the Office of the County Recorder of Maricopa County, Arizona, in Book 5 of Maps, page 17, TOGETHER with that certain street known as Third Avenue, abandoned by the Maricopa County Board of Supervisors in Resolution No. 1566 and Resolution No. 1675, which lie northerly and easterly of the following described line:

Commencing at the Northeast corner of Section 13, Township 1 North, Range 1 West, Gila and Salt River Meridian, Maricopa County, Arizona; thence South $0^{\circ} 19' 59''$ East along the East line of said Section 13, a distance of 330.00 feet; thence South $89^{\circ} 40' 01''$ West 40.00 feet to the existing westerly right of way line of 115th Avenue, the point of beginning; thence continuing South $89^{\circ} 40' 01''$ West 1.00 foot; thence North $4^{\circ} 47' 53''$ West 244.01 feet; thence South $89^{\circ} 55' 39''$ West 1170.52 feet to the point of ending on the West line of said East 17.5 feet of Lot 11.

Schedule A-2

Those portions of Lots 11, 12, 13 and 14 in Block 2 and of Lots 11, 12, 13 and 14 in Block 11, ALL in LITTLETON TRACT, according to the plat of record in the Office of the County Recorder of Maricopa County, Arizona, in Book 5 of Maps, page 17, TOGETHER with those certain streets and alleys known as Second Avenue and Main Street abandoned by the Maricopa County Board of Supervisors in Resolution No. 1566 and Resolution No. 1675, described as follows:

Beginning at the Northeast corner of Section 13, Township 1 North, Range 1 West, Gila and Salt River Meridian, Maricopa County, Arizona; thence South $0^{\circ} 19' 59''$ East along the East line of said Section 13, a distance of 330.00 feet; thence South $89^{\circ} 40' 01''$ West 41.00 feet; thence North $4^{\circ} 47' 53''$ West 244.01 feet; thence South $89^{\circ} 55' 39''$ West 1170.52 feet to the TRUE POINT OF BEGINNING; thence continuing South $89^{\circ} 55' 39''$ West 142.50 feet; thence South $0^{\circ} 19' 59''$ East 510.01 feet; thence North $89^{\circ} 55' 39''$ East 142.50 feet; thence North $0^{\circ} 19' 59''$ West 510.01 feet to the TRUE POINT OF BEGINNING.

EXCEPTING therefrom any portion which lies within the East 17.50 feet of said Lots 11 and 14 in Block 2, the South 16.00 feet and the East 17.50 feet of said Lot 14 in Block 11 and the East 17.50 feet of said Lot 11 in Block 11.

STATE OF ARIZONA)

COUNTY OF MARICOPA)

ss.

On this the 15th day of DECEMBER, 19 80,
before me, ROBERT LEE VETTER, JR., the undersigned Notary Public,
personally appeared Robert C. Cord, President, Board of Trustees,
Littleton Elementary School District No. 65, known to me (or
satisfactorily proven) to be the person whose name is subscribed
to the within instrument and acknowledged that he executed the
same for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

My Commission expires:

January 17, 1984

Robert Lee Vetter, Jr.
NOTARY PUBLIC

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On this the 16 day of December, 19 , before
me, BEVERLY W. GRIFFITH, the undersigned Notary Public,
personally appeared W. A. Ordway, Director, Arizona Department
of Transportation, known to me (or satisfactorily proven) to be
the person whose name is subscribed to the within instrument and
acknowledged that he executed the same for the purposes therein
contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

My Commission expires:

My Commission Expires Dec. 21, 1933


Beverly W. Griffith
NOTARY PUBLIC

EXHIBIT "A"

RESOLUTION

Be It Resolved on this 6th day of November, 1980, that I, W. A. Ordway, Director of the Arizona Department of Transportation, have determined that, pursuant to A.R.S. 28-108, it is in the best interest of the State of Arizona for the Department of Transportation, acting by and through its Highway Division, to enter into an Inter-governmental Agreement with School District No. 65 of Maricopa County for the functional replacement of classroom and irrigation facilities and an exchange of land for Littleton School.

Therefore, authorization is hereby given to draft said Agreement, which, upon completion, shall be submitted for approval and execution.



W. A. ORDWAY, Director
Arizona Department of Transportation

LITTLETON PUBLIC SCHOOLS

DISTRICT 65

P.O. BOX 280 • CASHION, ARIZONA 85329 • (602) 257-2993

LITTLETON
ELEMENTARY
257-2995

UNDERDOWN
JUNIOR HIGH
257-2890

EXHIBIT "B"

original in Escrow

December 2, 1980

Motion made by Jerry Hill second by Ken Crow that Littleton Elementary School District No. 65 accept the State of Arizona's proposed land exchange in connection with Project S-371-707, Parcel 7-2775; and direct the Board President, Robert C. Cord to sign all documents required to complete this transaction.

See attached exhibits "A" and "B" for legal description.

I certify the above motion was made at the Board of Trustee's meeting of Littleton Elementary School District No. 65 at their regular meeting on December 2, 1980 and is correctly stated above.

Richard A. Rogers
Clerk of the Board

12-8-80
Date

*OK for authority to
consummate exchange
Ed Rupp
12/10/80*

John

LITTLETON PUBLIC SCHOOLS

DISTRICT 65

P.O. BOX 280 • CASHION, ARIZONA 85329 • (602) 257-2993

LITTLETON
ELEMENTARY
257-2995

480
210
4712
UNDERDOWN
JUNIOR HIGH
257-2890

Exhibit "C"

RECEIVED
MAR 31 1980
RIGHT OF WAY SECTION
A.D.O.T.

March 28, 1980

Mr. Carter Clark
Chief Right of Way Agent
Arizona Dept. of Transportation
205 South 17th Avenue
Phoenix, AZ 85007

RE: Project S-371-707 R/W (9)C 307 PE
123rd Ave. - 107th Ave.

Dear Mr. Clark:

The building that will be eliminated on the Littleton Elementary campus by the Department of Transportation when Highway 85 is widened is a very vital part of our operation. It contains two classrooms of which both would be utilized next year, and we have no available rooms in which to transfer these classes. Therefore, the Littleton Board of Trustees request the Department of Transportation utilize functional replacement regarding this building.

Regarding the underground irrigation; the valves are thirty feet apart. I will be forwarding this information to Mr. Rockwell.

Also, please find enclosed the "Authorization for Arizona Public Service to enter Littleton Elementary School Property.

Sincerely,

Quentin Aycock

Quentin Aycock
Superintendent

js

Enclosure



OFFICE OF THE
Attorney General

1801 WEST JEFFERSON STREET
FOURTH FLOOR
PHOENIX, ARIZONA 85007

ROBERT K. CORBIN
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. 80-786, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in proper form and is within the powers and authority granted to the State or its agencies under the laws of the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 8 day of December, 1980.

ROBERT K. CORBIN
Attorney General

Jean L. Weaver
Assistant Attorney General
Transportation Division